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March 9, 2009

The Hon. Douglas Shulman  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20044

Dear Commissioner Shulman:

I write on behalf of constituents of New York's 14<sup>th</sup> Congressional District that I represent who have invested funds in companies controlled by Bernard L. Madoff. Specifically, I write regarding the tax implications of a public statement made on February 20, 2009 by Irving H. Picard, the Trustee appointed by the United States Bankruptcy Court for the Southern District of New York for the liquidation of Bernard L. Madoff InvestBent Securities LLC. As you are aware, Mr. Picard announced that no evidence exists to indicate that securities were ever purchased for Madoff's customer accounts over the course of the last 13 years.

Given this confirmation that Madoff Securities made no investments with its clients' money, I believe it would be appropriate for the Internal Revenue Service immediately to issue guidance and allow Mr. Madoff's clients both to claim theft loss on their 2008 tax returns and amend their tax returns dating back at least to 1995. The immediate issuance of guidance will give victims of Mr. Madoff's fraud sufficient time to complete their 2008 tax returns.

I also hereby request that the Internal Revenue Service exercise its discretion and extend the carryback under the theft-loss provisions beyond three years for Madoff investors. Given the magnitude of the fraud allegedly perpetrated, which media accounts report is the largest in history, I believe that the Madoff scandal constitutes an extraordinary circumstance that should permit a full carryback to the origins of the fraud.

Thank you for your consideration of my requests. I would welcome the opportunity to further discuss these issues with you.

Sincerely,

**CAROLYN B. MALONEY**  
Member of Congress

CBM:bp